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10  
11 **IN THE UNITED STATES DISTRICT COURT**

12 **IN AND FOR THE DISTRICT OF ARIZONA**

13 MARTHA RODRIGUEZ, a single woman,

14 Plaintiff,

15 vs.

16 QUALITY LOAN SERVICE CORP., a  
17 California corporation; MIDFIRST BANK,  
18 a nationally chartered bank and their  
19 subsidiary MIDLAND MORTGAGE  
20 COMPANY, an Oklahoma corporation;  
21 WELLS FARGO BANK, N.A., a national  
22 Banking association; TRES AMIGOS  
23 PROPERTIES LLC, an Arizona limited  
24 liability company; JOHN DOES I-X;  
25 JANE DOES I-X; ABC CORPORATIONS  
I-X; XYZ PARTNERSHIPS I-X,

Defendants.

Case No.: CV-09-01853-PHX-MHB

**DEFENDANTS MIDFIRST BANK  
AND MIDLAND MORTGAGE  
COMPANY'S MOTION FOR  
SUMMARY DISPOSITION,  
PURSUANT TO RULE 56(e)(2),  
FEDERAL RULES OF CIVIL  
PROCEDURE**

(Assigned to the Honorable Michelle H.  
Burns)

21 Defendants, MidFirst Bank ("MidFirst") and Midland Mortgage Company ("Midland"), by and  
22 through their counsel undersigned, pursuant to Rule 56(e)(2), Federal Rules of Civil Procedure, move  
23 for summary disposition of their Motion to Dismiss or, in the Alternative, Motion to for Summary  
24 Judgment, filed on October 28, 2009. (Docket No. 17.) On that same date, Defendants filed their  
25 Statement of Facts. (Docket No. 18.)

1 Pursuant to Rule 56(e)(2), when a Motion for Summary Judgment is properly made and  
2 supported, an opposing party may not rely merely on allegations or denials in its own pleading. A  
3 party must respond by Affidavits or as otherwise provided in Rule 56 and set out specific facts showing  
4 a genuine issue for trial. "If the opposing party does not so respond, summary judgment should, if  
5 appropriate, be entered against that party."

6 Pursuant to Rule 56.1(d), Rules of Practice of the United States District Court for the District of  
7 Arizona, a party opposing a Motion for Summary Judgment has thirty (30) days after service within  
8 which to serve and file a responsive memorandum. In this case, Plaintiff has failed to file any  
9 responsive pleading. Therefore, Defendants request that the Court grant their Motion for Summary  
10 Judgment on Counts I, II, III, IV and V of Plaintiff's Complaint. Defendants also request an award of  
11 their attorney's fees, pursuant to A.R.S. § 12-341.01.  
12

13 **RESPECTFULLY SUBMITTED** this 11<sup>th</sup> day of December, 2009.

14 **McCARTHY ♦ HOLTHUS ♦ LEVINE**

15  
16 By: /s/ Paul M. Levine

17 Paul M. Levine

18 Matthew A. Silverman

19 Jessica R. Kenney

20 3636 North Central Avenue, Suite 1050

21 Phoenix, Arizona 85012

22 Attorneys for Defendants Midfirst/Midland

23 ORIGINAL of the foregoing electronically  
24 filed with the Clerk of the Court this 11<sup>th</sup>  
25 day of December, 2009.

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1 COPY of the foregoing emailed this 11<sup>th</sup>  
2 day of December, 2009 to:

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16 /s/ Danielle Fratterelli  
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